

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRIAN A. JOHNSON,

Petitioner,

v.

**WARDEN, CHILLICOTHE
CORRECTIONAL INSTITUTION,**

Respondent.

CASE NO. 2:16-CV-985

**CHIEF JUDGE EDMUND A. SARGUS, JR.
MAGISTRATE JUDGE KEMP**

ORDER

Petitioner a state prisoner, brings the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and *Motion Requesting Stay and Abeyance of Unexhausted States Remedies Pursuant to 28 U.S.C. § 2254(b)(1)(A)*. (Doc. 2.) Respondent has submitted a *Response*. (Doc. 7.) Petitioner has filed a *Reply*. (Doc. 8.) For the reasons that follow, Petitioner's request for a stay (Doc. 2) is **GRANTED**.

The parties indicate that Petitioner has presented a mixed petition for this Court's review. Further, it is the position of the Respondent that a stay of proceedings is appropriate under the Supreme Court's decision in *Rhines v. Weber*, 544 U.S. 269 (2005), and Respondent therefore does not oppose Petitioner's request for a stay. It appears from the record that at least several of Petitioner's claims remain pending in the Ohio Supreme Court. Further, Respondent indicates that the statute of limitations likely will bar Petitioner from re-filing this action, should the Court dismiss the Petition without prejudice pending Petitioner's exhaustion of his claims in the state courts.

Therefore, the Court **GRANTS** Petitioner's unopposed request for a stay of proceedings pending exhaustion of his claims in the Ohio Supreme Court. Petitioner is **DIRECTED** to

advise the Court within twenty (20) days of the exhaustion of his claims. Failure to do so may result in the dismissal of this action.

IT IS SO ORDERED.

/s/ Terence P. Kemp
United States Magistrate Judge